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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

HO, THOMAS Y

ART UNIT PAPER NUMBER

3677

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/634,118

Applicant(s)

MILLER ET AL.

Examiner

Thomas Y Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01202004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Status of Claims***

Claims 1-54 are pending. No claims have been withdrawn or cancelled.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it exceeds 150 words. Correction is required. See MPEP § 608.01(b).

### ***Priority***

This application discloses and claims only subject matter disclosed in prior Application No. 09/922577, filed 8/03/01, and names an inventor or inventors named in the prior application. Accordingly, this application may constitute a continuation or division. Should applicant desire to obtain the benefit of the filing date of the prior application, attention is directed to 35 U.S.C. 120 and 37 CFR 1.78.

### ***Claim Objections***

Claims 9 and 25 are objected to because of the following informalities: as to claim 9, the word "an" should be --a-- in part (a); as to claim 25, the word "detentfor" should be --detent for-- . Appropriate correction is required.

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***Double Patenting***

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-54 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-54 of copending Application No. 09/922577. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-4, 6-15, 17-31, 33-41, and 43-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Mosch US4801164.**

As to claim 1, Mosch discloses, a locking window, said window comprising: (a) a window frame including at least one window sash which is selectively movable between a first closed position and a second open position; and (b) a window latch adapted to be attached to said window and that is selectively movable between a first open position and a second locked position to secure said window sash in said closed position, said window latch including a cam

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latch 30/36, a housing 10 and a pivot fastener 31/32/42 for attaching said cam latch to said housing.

As to claim 2, Mosch discloses, further including a detent 65/66/67/68 for retaining said cam latch in one of said open and said locked positions.

As to claim 3, Mosch discloses, wherein said detent provides an audible indication of said cam latch being in one of said open and said locked positions.

As to claim 4, Mosch discloses, wherein said detent includes at least one protrusion on one of said housing and said cam latch and a receiving groove on the other of said housing and said cam latch, said protrusion and said groove being substantially parallel to the axis of said pivot fastener.

As to claim 6, Mosch discloses, further including a bushing 35 adapted for use with said pivot fastener.

As to claim 7, Mosch discloses, wherein said detent includes at least one protrusion on one of said housing and said bushing and a receiving groove on the other of said housing and said bushing, said receiving groove for receiving said protrusion, said protrusion and said groove being substantially parallel to the axis of said pivot fastener.

As to claim 8, Mosch discloses, wherein said detent includes at least one resilient portion on one of said housing and said bushing, said resilient portion for accommodating said protrusion when said cam latch is moved from one of said open and said locked positions to the other of said open and said locked positions.

As to claim 9, Mosch discloses, a window latch for a locking window, said window having a window frame including at least one window sash which is selectively movable

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between a first closed position and a second open position, said window latch comprising: (a) an cam latch 30/36; (b) a housing 10 including a support wall (the walls below the parts 21 and 22 in Figure 4); and (c) a pivot fastener 31/32/42 for attaching said cam latch to said housing, wherein said cam latch is selectively movable between a first open position and a second locked position to secure said window sash in said closed position.

As to claim 10, Mosch discloses, wherein said cam latch includes an actuator arm 30, a locking arm (body of 36) and a pivot point (through 31) location between said actuator arm and said locking arm.

As to claim 11, Mosch discloses, further including a finger tab (end portion of 30) on said actuator arm.

As to claim 12, Mosch discloses, said locking arm further including a cam wall 50.

As to claim 13, Mosch discloses, wherein the ratio of the length of said actuator arm to the length of said locking arm is greater than about 2 to provide a mechanical advantage when said window latch is operated (see Figure 4).

As to claim 14, Mosch discloses, one of said actuator arm and said locking arm including a key lock receptor 55 and the other of said actuator arm and said locking arm including a complementary key lock 69 extending into said key lock receptor for attaching said cam latch to said housing.

As to claim 15, Mosch discloses, further including a fastener 31 extending into said key lock and key lock receptor.

As to claim 17, Mosch discloses, one of said key lock and said key lock receptor further including an alignment feature 32/33 and the other of said key lock and said key lock receptor further including a mating alignment feature (edges of 55).

As to claim 18, Mosch discloses, wherein said housing extends beyond said pivot fastener parallel to said window frame (see Figure 3) and includes an aperture 14/15/(also the space under 14/15) for receiving a fastener for attaching said housing to said window.

As to claim 19, Mosch discloses, wherein said aperture for receiving a fastener for attaching said housing to said window includes a retainer (the retainer can be the top edge of the apertures 14/15) for receiving a fastener.

As to claim 20, Mosch discloses, wherein the base of said aperture for receiving a fastener includes a cavity (space under 14/15 in Figure 2) for receiving shavings formed by attaching said window latch to said window.

As to claim 21, Mosch discloses, wherein said housing extends beyond said pivot fastener parallel to said window frame to include a finger shoulder (the edge 20 in Figure 2) for providing access to said cam latch. Alternatively, the finger shoulder can be the recessed top portion of housing 10 that provides the area of travel of the finger tab on the end of 30.

As to claim 22, Mosch discloses, wherein said support wall is between said aperture and cam latch.

As to claim 23, Mosch discloses, wherein said support wall is substantially perpendicular to said window frame.

As to claim 24, Mosch discloses, further including a locking arm catch.

As to claim 25, Mosch discloses, further including a cam detent for engaging said locking arm.

As to claim 26, Mosch discloses, further including an aperture for receiving a fastener for attaching said locking arm catch to said window.

As to claim 27, Mosch discloses, wherein said aperture for receiving a fastener for attaching said locking arm catch to said window includes a retainer for receiving a fastener.

As to claim 28, Mosch discloses, wherein said pivot fastener is substantially non-compressible so as to facilitate the selective movement of said cam latch between said first open position and said second locked position.

As to claim 29, Mosch discloses, a locking window, said window comprising: (a) a window frame including at least one window sash which is selectively movable between a first closed position and a second open position; and (b) a window latch adapted to be attached to said window and that is selectively movable between a first open position and a second locked position to secure said window sash in said closed position, said window latch comprising: (i) a cam latch; (ii) a housing including a support wall; (iii) a pivot fastener for attaching said cam latch to said housing, wherein said cam latch is selectively movable between a first open position and a second locked position to secure said window sash in said closed position; and (iv) a detent for retaining said cam latch in one of said open and said locked positions.

As to claim 30, Mosch discloses, wherein said detent provides an audible indication of said cam latch being in one of said open and said locked positions.

As to claim 31, Mosch discloses, wherein said detent includes at least one protrusion on one of said housing and said cam latch and a receiving groove on the other of said housing and



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said cam latch, said protrusion and said groove being substantially parallel to the axis of said pivot fastener.

As to claim 33, Mosch discloses, further including a bushing adapted for use with said pivot fastener.

As to claim 34, Mosch discloses, wherein said detent includes at least one protrusion on one of said housing and said bushing and a receiving groove on the other of said housing and said bushing, said receiving groove for receiving said protrusion, said protrusion and said groove being substantially parallel to the axis of said pivot fastener.

As to claim 35, Mosch discloses, wherein said detent includes at least one resilient portion on one of said housing and said bushing, said resilient portion for accommodating said protrusion when said cam latch is moved from one of said open and said locked positions to the other of said open and said locked positions.

As to claim 36, Mosch discloses, wherein said cam latch includes an actuator arm, a locking arm and a pivot point location between said actuator arm and said locking arm.

As to claim 37, Mosch discloses, further including a finger tab on said actuator arm.

As to claim 38, Mosch discloses, said locking arm further including a cam wall.

As to claim 39, Mosch discloses, wherein the ratio of the length of said actuator arm to the length of said locking arm is greater than about 2 to provide a mechanical advantage when said window latch is operated.

As to claim 40, Mosch discloses, one of said actuator arm and said locking arm including a key lock receptor and the other of said actuator arm and said locking arm including a

complementary key lock extending into said key lock receptor for attaching said cam latch to said housing.

As to claim 41, Mosch discloses, further including a fastener extending into said key lock and key lock receptor.

As to claim 43, Mosch discloses, one of said key lock and said key lock receptor further including an alignment feature and the other of said key lock and said key lock receptor further including a mating alignment feature.

As to claim 44, Mosch discloses, wherein said housing extends beyond said pivot fastener parallel to said window frame and includes an aperture for receiving a fastener for attaching said housing to said window.

As to claim 45, Mosch discloses, wherein said aperture for receiving a fastener for attaching said housing to said window includes a retainer for receiving a fastener.

As to claim 46, Mosch discloses, wherein the base of said aperture for receiving a fastener includes a cavity for receiving shavings formed by attaching said window latch to said window.

As to claim 47, Mosch discloses, wherein said housing extends beyond said pivot fastener parallel to said window frame to include a finger shoulder for providing access to said cam latch.

As to claim 48, Mosch discloses, wherein said support wall is between said aperture and cam latch.

As to claim 49, Mosch discloses, wherein said support wall is substantially perpendicular to said window frame.

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As to claim 50, Mosch discloses, further including a locking arm catch.

As to claim 51, Mosch discloses, further including a cam detent for engaging said locking arm.

As to claim 52, Mosch discloses, further including an aperture for receiving a fastener for attaching said locking arm catch to said window.

As to claim 53, Mosch discloses, wherein said aperture for receiving a fastener for attaching said locking arm catch to said window includes a retainer for receiving a fastener.

As to claim 54, Mosch discloses, wherein said pivot fastener is substantially non-compressible so as to facilitate the selective movement of said cam latch between said first open position and said second locked position.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 5 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mosch US4801164 in view of Wytcherley US6203076.**

As to claim 5, Mosch discloses, wherein said detent includes at least one protrusion on one of said housing and said cam latch and a semi-circular receiving groove on the other of said housing and said cam latch.

The difference between the claim and Mosch is the claim recites, said semi-circular receiving groove including at least one barbell shaped portion for receiving said protrusion, said

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protrusion being substantially parallel to the axis of said pivot fastener and said groove being substantially perpendicular to the axis of said pivot fastener.

Wytcherley discloses a handle and lock similar to that of Mosch. In addition, Wytcherley further teaches the claimed structures above, as well as the use of a protrusion 42 and a semi-circular receiving groove 37 having barbell shaped portions 85/86 for receiving the protrusion. It would have been obvious to one of ordinary skill in the art, having the disclosures of Wytcherley and Mosch before him at the time the invention was made, to modify the latch of Mosch to have the detent of Wytcherley. One would have been motivated to make such a combination because the ability to position the handle in locking/unlocking positions would have been achieved, as taught by Wytcherley (col.5, ln.1-20). Further, different types of detents are art-recognized equivalents.

As to claim 32, Wytcherley teaches, wherein said detent includes at least one protrusion on one of said housing and said cam latch and a semi-circular receiving groove on the other of said housing and said cam latch, said semi-circular receiving groove including at least one barbell shaped portion for receiving said protrusion, said protrusion being substantially parallel to the axis of said pivot fastener and said groove being substantially perpendicular to the axis of said pivot fastener.

**Claims 16 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mosch US4801164 in view of Strang US3645573.**

As to claim 16, the difference between the claim and Mosch is the claim recites, said fastener is a self-tapping threaded fastener.

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Strang discloses a window lock similar to that of Mosch. In addition, Strang further teaches the use of a self-tapping threaded fastener 64 to mount the cam latch. It would have been obvious to one of ordinary skill in the art, having the disclosures of Mosch and Strang before him at the time the invention was made, to modify the fastener 42 of Mosch to be the fastener 64 of Strang. One would have been motivated to make such a combination because the ability to removably mount the cam latch would have been achieved, and because different fasteners are known to be equivalent, and both rivet ends and screws are old and well known to be equivalents in the art.

As to claim 42, Strang teaches, said fastener is a self-tapping threaded fastener.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. US2151219 to Madsen discloses a sash lock.
2. US2873134 to Ahlgren discloses a sash lock.
3. US2997323 to Riser discloses a sash fastener.
4. US5219193 to Piltingsrud discloses a forced entry check rail lock.
5. US5454609 to Slocomb discloses a snap in latch assembly for windows.
6. US5632394 to Mecca discloses a container with a protrusion and barbell shaped groove ends.
7. US6068306 to Brautigam discloses a window locking arrangement.
8. US6142541 to Rotondi discloses a pick resistant sash lock.
9. US6349576 to Subliskey discloses a lockable sash assembly.

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10. US6565133 to Timothy discloses a sweep lock and tilt latch.
11. US6565135 to Wythcerley discloses a pivoting handle device with a protrusion and barbell shaped groove ends.
12. US6568723 to Murphy discloses a sash lock.
13. US6598910 to McGregor discloses a friction joint and fastener.
14. US6634683 to Brannan discloses a sash lock.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y Ho whose telephone number is (703)305-4556. The examiner can normally be reached on M-F 10:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J Swann can be reached on (703)306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TYH



ROBERT J. SANDY  
PRIMARY EXAMINER